

HONORABLE TIFFANY M. CARTWRIGHT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMERICAN PACIFIC MORTGAGE
CORPORATION, a California corporation; and
ELEMENT MORTGAGE, a division of
AMERICAN PACIFIC MORTGAGE
CORPORATION

Plaintiff,

vs.

EVERETT FINANCIAL, INC. d/b/a SUPREME
LENDING; LUKE WELLING, an individual
residing in Washington State; MATTHEW
THOMAS, an individual residing in Washington
State; ANDREW HOPKINS, an individual
residing in Washington State; AUSTIN JAMES,
an individual residing in Washington State;
COREY CONDRIN, an individual residing in
Washington State; DANIEL WON, an individual
residing in Washington State; KIMBERLY
BUNDRUM, an individual residing in
Washington State; CINDEE WILSON, an
individual residing in Washington State;
JANE/JOHN DOES 1-10; DOE
BUSINESS/CORPORATE ENTITIES 1-10,

Defendants.

Case No. 2:21-cv-1088-TMC

**JOINT STIPULATION FOR LEAVE
TO AMEND PLAINTIFF'S
COMPLAINT and ORDER**

TRIAL DATE: January 17, 2023
ACTION FILED: August 13, 2021

1 **I. INTRODUCTION**

2 Pursuant to Federal Rule of Civil Procedure 15(a)(2) and LCR 15, Plaintiff and Defendants
3 by and through their respective counsel of record, hereby stipulate and agree that Plaintiff be given
4 leave of the Court to amend the complaint filed herein and the FIRST AMENDED COMPLAINT
5 FOR DAMAGES AND JURY TRIAL, attached hereto as **Exhibit A**, to be filed within sixteen
6 days of this stipulation being granted by the court.

7 **II. BACKGROUND**

8 Plaintiff filed this lawsuit on August 13, 2021 and subsequently served the Summons and
9 Complaint on multiple Defendants. Subsequently, the court granted a motion to compel arbitration
10 as to all the defendants, except for Supreme Lending and Luke Welling, and imposed a stay on the
11 litigation until arbitration had concluded, sending the remaining defendants to arbitration. During
12 arbitration, Plaintiff learned more facts pertaining to its claims, and determined to narrow its claims
13 and parties, ultimately dismissing all of the defendants except for Supreme Lending and Luke
14 Welling. The parties now stipulate and agree to amend Plaintiff's Complaint as reflected in the
15 attached exhibit.

16 **III. ARGUMENT**

17 Federal Rule of Civil Procedure 15(a)(2) allows for the amendment of pleadings with leave
18 of the court, or with opposing counsel's written consent, before trial. The Rule further provides
19 that "the court should freely give leave when justice so requires." *Id.*

20 The Ninth Circuit has instructed that this rule "should be interpreted with 'extreme
21 liberality,'" *Jackson v. Bank of Hawaii*, 902 F.2d 1385, 1387 (9th Cir. 1990) (quoting *United States*
22 *v. Webb*, 655 F.2d 977, 979 (9th Cir. 1981)), and "[a]n outright refusal to grant leave to amend
23 without a justifying reason is . . . an abuse of discretion." *Smith v. Constellation Brands, Inc.*, 2018
24 WL 991450, at *2 (9th Cir. Feb. 21, 2018) (quoting *Leadsinger, Inc. v. BMG Music Publ'g*, 512
25 F.3d 522, 532 (9th Cir. 2008)). A district court only has discretion to deny leave to amend "due
26 to . . . repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to
27 the opposing party by virtue of allowance of the amendment, [and] futility of amendment." *Id.* at
28 *2 (quoting *Zucco Partners, LLC v. Digimarc Corp.*, 52 F.3d 981, 1007 (9th Cir. 2009) and

Leadsinger, Inc., 512 F.3d at 532). An amendment to a pleading relates back to the date of the original pleading when the amendment changes the party against whom a claim is asserted if the amendment asserts a claim that arose out of the conduct, transaction, or occurrence set out (or attempted to be set out) in the original pleading. Fed. R. Civ. P. 15(c)(1)(B).

IV. CONCLUSION

For these reasons, the parties respectfully seek the court's approval of this stipulation and allow Plaintiff to file the attached amended complaint within sixteen days of this stipulation being granted.

Dated this 4th day of October, 2023.

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ORDER

Pursuant to the stipulation of the parties in this matter, Plaintiff is granted leave to amend its Complaint. Plaintiff must file and serve the amended pleading on all parties within sixteen days of the filing of this order.

Dated this 4th day of October, 2023, at Seattle, Washington.



Tiffany M. Cartwright
United States District Court Judge

Presented and submitted by:

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